IN THE HIGH COURT OF JUDICATURE

ANDHRA PRADESH AT HYDERABAD.

HON'BLE SRI JUSTICE C.V. RAMULU

Writ Petition No. 35042 of 1998

Dated: 23rd August 2005

Between:

Mohd. Jaleel … Petitioner

And

The Industrial Tribunal-cum-Labour Court,
Rep. By Presiding Officer, Warangal
And three others.
… Respondents

Oral Order:

1. This writ petition is filed by the workman being aggrieved by the award made in I.D.No.75 of 1996 dated 9-3-1998 on the file of the Industrial Tribunal-cum-Labour Court at Warangal wherein the petition filed by the workman under Section 2-A(2) of the Industrial Disputes Act was rejected in toto without granting any relief.

2. It is the case of the petitioner that the respondent management

has engaged him as a Driver on daily wage basis in the month of June 1985 and he continuously worked till 30-9-1988, but his services were illegally terminated. According to the petitioner, he had put in more than 240 days preceding 12 calendar months from the date of his termination from service. Therefore, the provisions of Section 25-F of the Industrial Disputes Act, 1947 {for short 'the Act'} are attracted. The services of the petitioner were dispensed with without following the procedure as contemplated under Section 25-F of the Act, therefore, the same is arbitrary and illegal.

3. When he laid the claim petition under Section 2-A(2) of the Act before the Industrial Tribunal-cum-Labour Court, the Labour Court though found that the petitioner worked only on daily wages from 1985 to 1988 before his termination from service, took a peculiar reason stating that the petitioner did not work continuously during the years 1985 to 1988 and he is only a daily wage worker, though he has completed 240 days within 12 calendar months prior to his termination and he is not entitled for any protection under Section 25-F of the Act, and the same is arbitrary and illegal.

4. Though no counter is filed, the learned standing counsel Sri Samineni Kishore has strenuously contended that the Labour Court has taken the overall circumstances into consideration and considered various spells of working days during the years 1985 to 1988 and found that the petitioner hardly worked for 40 days, 50 days, 200 days etc. and did not continuously work for 240 days, though he has completed 247 days during the 12 calendar months preceding the date of termination, therefore, the award passed by the Labour Court is just and proper and does not call for any interference of this Court.

5. I have given my earnest consideration to the respective submissions of the learned counsel for either parties and also perused the material made available on record. At the outset, I am of the opinion that the Labour Court has grossly erred in holding that the petitioner was not

continuously engaged for 240 days during 1985 to 1988, therefore, he is not entitled for protection under Section 25-F of the Act. This is an unfortunate finding given by the Industrial Tribunal-cum-Labour Court at Warangal. The Labour Court itself has recorded that as per Ex.M.1, during the year 1987 from October to December the workman worked for 42 days and during the year 1988 he worked for 205 days. Thus, the workman worked for 247 days within 12 calendar months and the said period is arrived basing on Ex.M.1. Having found so, the Labour Court misguided itself in saying that the petitioner worked only on daily wage basis during broken periods and he did not continuously work for 240 days and further he did not work as against any sanctioned post, as such he is not entitled for any relief. When once the finding of fact that the petitioner had put in more than 247 days within 12 calendar months preceding the date of termination of the petitioner is accepted, the question whether he had put in 240 days continuously or intermittently is of no consequence. Here the Labour Court has misguided itself in coming to such a conclusion that the petitioner worked only on daily wage basis during broken periods and he did not work continuously for 240 days, therefore, he was not entitled for the protection under Section 25-F of the Act. This finding of the Labour Court is arbitrary, illegal and capricious, therefore, the award under challenge is liable to be set aside.

6. In the result, the respondent management is directed to reinstate the petitioner into service with continuity of service from the date of filing of the petition under Section 2-A(2) of the Act before the Labour Court and with all attendant benefits, but without any backwages. The writ petition is allowed to the extent indicated above. No order as to costs.

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(C.V. Ramulu, J)

23rd August 2005

svs